H. R. 985

To enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products.

A BILL

To enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1.

SECTION 2. SHORT TITLE.

This Act may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act of 2015”.

SEC. 3. DECLARATION OF POLICY.

(a) PURPOSE.—The purpose of this Act is to authorize the establishment of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of research, education, and promotion, including funds for marketing and market research activities, that is designed to—

(1) strengthen the position of the concrete masonry products industry in the domestic marketplace;

(2) maintain, develop, and expand markets and uses for concrete masonry products in the domestic marketplace; and

(3) promote the use of concrete masonry products in construction and building.

(b) LIMITATION.—Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of any person to manufacture concrete masonry products.

SEC. 4. DEFINITIONS.

For the purposes of this Act:
(1) **BLOCK MACHINE.**—The term “block machine” means a piece of equipment that utilizes vibration and compaction to form concrete masonry products.

(2) **BOARD.**—The term “Board” means the Concrete Masonry Products Board established under section 5.

(3) **CAVITY.**—The term “cavity” means the open space in the mold of a block machine capable of forming a single concrete masonry unit having nominal plan dimensions of 8 inches by 16 inches.

(4) **COMMERCE.**—The term “commerce” includes interstate, foreign, and intrastate commerce.

(5) **CONCRETE MASONRY PRODUCTS.**—The term “concrete masonry products” refers to a broader class of products, including concrete masonry units as well as hardscape products such as concrete pavers and segmental retaining wall units, manufactured on a block machine using dry-cast concrete.

(6) **CONCRETE MASONRY UNIT.**—The term “concrete masonry unit” means a concrete masonry product that is a manmade masonry unit having an actual width of 3 inches or greater and manufactured from dry-cast concrete using a block machine.
Such term includes concrete block and related concrete units used in masonry applications.

(7) **CONFLICT OF INTEREST.**—The term “conflict of interest” means, with respect to a member or employee of the Board, a situation in which such member or employee has a direct or indirect financial or other interest in a person that performs a service for, or enters into a contract with, for anything of economic value.

(8) **DEPARTMENT.**—The term “Department” means the Department of Commerce.

(9) **DRY-CAST CONCRETE.**—The term “dry-cast concrete” means a composite material that is composed essentially of aggregates embedded in a binding medium composed of a mixture of cementitious materials (including hydraulic cement, pozzolans, or other cementitious materials) and water of such a consistency to maintain its shape after forming in a block machine.

(10) **EDUCATION.**—The term “education” means programs that will educate or communicate the benefits of concrete masonry products in safe and environmentally sustainable development, advancements in concrete masonry product technology and development, and other information and pro-
grams designed to generate increased demand for
commercial, residential, multi-family, and institutional projects using concrete masonry products and
to generally enhance the image of concrete masonry
products.

(11) MACHINE CAVITIES.—The term “machine
cavities” means the cavities with which a block ma-
chine could be equipped.

(12) MACHINE CAVITIES IN OPERATION.—The
term “machine cavities in operation” means those
machine cavities associated with a block machine
that have produced concrete masonry units within
the last 6 months of the date set for determining eli-
gibility and is fully operable and capable of pro-
ducing concrete masonry units.

(13) MANUFACTURER.—The term “manufac-
turer” means any person engaged in the manufac-
turing of commercial concrete masonry products in
the United States.

(14) MASONRY UNIT.—The term “masonry
unit” means a noncombustible building product in-
tended to be laid by hand or joined using mortar,
grout, surface bonding, post-tensioning or some com-
bination of these methods.
ORDER.—The term “order” means an order issued under section 4.

PERSON.—The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

PROMOTION.—The term “promotion” means any action, including paid advertising, to advance the image and desirability of concrete masonry products with the express intent of improving the competitive position and stimulating sales of concrete masonry products in the marketplace.

RESEARCH.—The term “research” means studies testing the effectiveness of market development and promotion efforts, studies relating to the improvement of concrete masonry products and new product development, and studies documenting the performance of concrete masonry.

SECRETARY.—The term “Secretary” means the Secretary of Commerce.

UNITED STATES.—The term “United States” means the several States and the District of Columbia.

SEC. 5. ISSUANCE OF ORDERS.

(a) IN GENERAL.—
(1) Issuance.—The Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to manufacturers of concrete masonry products.

(2) Scope.—Any order shall be national in scope.

(3) One Order.—Not more than one order shall be in effect at any one time.

(b) Procedures.—

(1) Development or Receipt of Proposed Order.—A proposed order with respect to the generic research, education, and promotion with regards to concrete masonry products may be—

(A) proposed by the Secretary at any time; or

(B) requested by or submitted to the Secretary by—

(i) an existing national organization of concrete masonry product manufacturers; or

(ii) any person that may be affected by the issuance of an order.

(2) Publication of Proposed Order.—If the Secretary determines that a proposed order received in accordance with paragraph (1)(B) is con-
sistent with and will effectuate the purpose of this
Act, the Secretary shall publish such proposed order
in the Federal Register not later than 90 days after
receiving the order, and give not less than 30 days
notice and opportunity for public comment on the
proposed order.

(3) ISSUANCE OF ORDER.—

(A) IN GENERAL.—After notice and oppor-
tunity for public comment are provided in ac-
cordance with paragraph (2), the Secretary
shall issue the order, taking into consideration
the comments received and including in the
order such provisions as are necessary to ensure
that the order is in conformity with this Act.

(B) EFFECTIVE DATE.—If there is an af-
firmative vote in a referendum as provided in
section 7, the Secretary shall issue the order
and such order shall be effective not later than
140 days after publication of the proposed
order.

(c) AMENDMENTS.—The Secretary may, from time to
time, amend an order. The provisions of this Act applica-
table to an order shall be applicable to any amendment to
an order.
SEC. 6. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Any order issued under this Act shall contain the terms and provisions specified in this section.

(b) CONCRETE MASONRY PRODUCTS BOARD.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of a Concrete Masonry Products Board to carry out a program of generic promotion, research, and education regarding concrete masonry products.

(B) MEMBERSHIP.—

(i) NUMBER OF MEMBERS.—The board shall consist of not less than 15 and not more than 25 members.

(ii) APPOINTMENT.—The members of the Board shall be appointed by the Secretary from nominations submitted as provided in the order.

(iii) COMPOSITION.—The Board shall consist of manufacturers. No employee of an industry trade organization exempt from tax under paragraphs (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)) representing the concrete masonry industry or
related industries shall serve as a member
of the Board and no member of the Board
may serve concurrently as an officer of the
board of directors of a national concrete
masonry products industry trade associa-
tion. Only two individuals from any single
company or its affiliates may serve on the
Board at any one time.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) REPRESENTATION.—To ensure fair
and equitable representation of the concrete
masonry products industry, the composition of
the Board shall reflect the geographical dis-
tribution of the manufacture of concrete ma-
sonry products in the United States, the types
of concrete masonry products manufactured,
and the range in size of manufacturers in the
United States.

(B) ADJUSTMENT IN BOARD REPRESENTA-
TION.—Three years after the assessment of
congcrete masonry products commences pursuant
to an order, and at the end of each 3-year pe-
riod thereafter, the Board, subject to the review
and approval of the Secretary, shall, if war-
ranted, recommend to the Secretary the re-
apportionment of the Board membership to reflect changes in the geographical distribution of the manufacture of concrete masonry products and the types of concrete masonry products manufactured.

(3) NOMINATIONS PROCESS.—The Secretary may make appointments from nominations by manufacturers pursuant to the method set forth in the order.

(4) FAILURE TO APPOINT.—If the Secretary fails to make an appointment to the Board within 60 days of receiving nominations for such appointment, the first nominee for such appointment shall be deemed appointed, unless the Secretary provides reasonable justification for the delay to the Board and to Congress and provides a reasonable date by which approval or disapproval will be made.

(5) ALTERNATES.—The order shall provide for the selection of alternate members of the Board by the Secretary in accordance with procedures specified in the order.

(6) TERMS.—

(A) IN GENERAL.—The members and any alternates of the Board shall each serve for a term of 3 years, except that members and any
alternates initially appointed to the Board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or an alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of the Board shall be filled in a manner provided for in the order.

(7) DISQUALIFICATION FROM BOARD SERVICE.—The order shall provide that if a member or alternate of the Board who was appointed as a manufacturer ceases to qualify as a manufacturer, such member or alternate shall be disqualified from serving on the Board.

(8) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of the Board shall serve without compensation.
(B) Travel Expenses.—If approved by the Board, members or alternates shall be reimbursed for reasonable travel expenses, which may include per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the Board.

(c) Powers and Duties of the Board.—The order shall specify the powers and duties of the Board, including the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish regional organizations or committees to administer regional initiatives;

(5) to establish working committees of persons other than Board members;
(6) to employ such persons, other than the members, as the board considers necessary, and to determine the compensation and specify the duties of the persons;

(7) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 6 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the Board;

(8) to borrow funds necessary for the startup expenses of the order;

(9) to carry out generic research, education, and promotion programs and projects relating to concrete masonry products, and to pay the costs of such programs and projects with assessments collected under section 6;

(10) subject to subsection (e), to enter into contracts or agreements to develop and carry out programs or projects of research, education, and promotion relating to concrete masonry products;

(11) to keep minutes, books, and records that reflect the actions and transactions of the Board,
and promptly report minutes of each Board meeting
to the Secretary;

(12) to receive, investigate, and report to the
Secretary complaints of violations of the order;

(13) to furnish the Secretary with such infor-
mation as the Secretary may request;

(14) to recommend to the Secretary such
amendments to the order as the Board considers ap-
propriate; and

(15) to provide the Secretary with advance no-
tice of meetings to permit the Secretary or the Sec-
etary’s representative to attend the meetings.

(d) PROGRAMS AND PROJECTS; BUDGETS; EX-
PENSES.—

(1) PROGRAMS AND PROJECTS.—

(A) IN GENERAL.—The order shall require
the Board to submit to the Secretary for ap-
proval any program or project of research, edu-
cation, or promotion relating to concrete ma-
sonry products.

(B) STATEMENT REQUIRED.—Any edu-
cational or promotional activity undertaken with
funds provided by the Board shall include a
statement that such activities were supported in
whole or in part by the Board.
(2) BUDGETS.—

(A) SUBMISSION.—The order shall require the Board to submit to the Secretary for approval a budget of the anticipated expenses and disbursements of the Board in the implementation of the order, including the projected costs of concrete masonry products research, education, and promotion programs and projects.

(B) TIMING.—The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(C) APPROVAL.—If the Secretary fails to approve or reject a budget within 60 days of receipt, such budget shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made.

(3) ADMINISTRATIVE EXPENSES.—

(A) INCURRING EXPENSES.—The Board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the Board as authorized by the Secretary.
(B) Payment of Expenses.—Expenses incurred under subparagraph (A) shall be paid by the Board using assessments collected under section 6, earnings obtained from assessments, and other income of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays.

(C) Limitation on Spending.—For fiscal years beginning 3 or more years after the date of the establishment of the Board, the Board may not expend for administration (except for reimbursement to the Secretary required under subparagraph (D)), maintenance, and functioning of the Board in a fiscal year an amount that exceeds 10 percent of the assessment and other income received by the Board for the fiscal year.

(D) Reimbursement of Secretary.—The order shall require that the Secretary be reimbursed by the Board from assessments for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(e) Contracts and Agreements.—
(1) IN GENERAL.—The order shall provide that, with the approval of the Secretary, the Board may—

(A) enter into contracts and agreements to carry out generic research, education, and promotion programs and projects relating to concrete masonry products, including contracts and agreements with manufacturer associations or other entities as considered appropriate by the Secretary;

(B) enter into contracts and agreements for administrative services; and

(C) pay the cost of approved generic research, education, and promotion programs and projects using assessments collected under section 6, earnings obtained from assessments, and other income of the Board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters into the contract or agreement with the Board shall—

(A) develop and submit to the Board a proposed program or project together with a budget that specifies the cost to be incurred to carry out the program or project;

(B) keep accurate records of all of transactions relating to the contract or agreement;
(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the Board of activities conducted under the contract or agreement; and

(E) make such other reports as the Board or the Secretary considers relevant.

(3) FAILURE TO APPROVE.—If the Secretary fails to approve or reject a contract or agreement entered into under paragraph (1) within 60 days of receipt, the contract or agreement shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made.

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;
(B) collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) account for the receipt and disbursement of all funds in the possession, or under the control, of the Board.

(2) Audits.—The order shall require the Board to have—

(A) the books and records of the Board audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(g) Prohibited Activities.—

(1) In General.—Subject to paragraph (2), the Board shall not engage in any program or project to, nor shall any funds received by the Board under this Act be used to—

(A) influence legislation, elections, or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading;
(D) engage in any promotion, research, or education that would be disparaging to other construction materials; or

(E) engage in any promotion or project that would benefit any individual manufacturer.

(2) EXCEPTIONS.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of research, education, and promotion activities under the order except communications described in paragraph (1)(A); or

(C) any lawful action designed to market concrete masonry products directly to a foreign government or political subdivision of a foreign government.

(h) PERIODIC EVALUATION.—The order shall require the Board to provide for the independent evaluation of all research, education, and promotion programs or projects undertaken under the order, beginning five years after the date of enactment of this Act and every three years there-
after. The Board shall submit to the Secretary and make available to the public the results of each such evaluation.

(i) Objectives.—The Board shall establish annual research, education, and promotion objectives and performance metrics for each fiscal year subject to approval by the Secretary.

(j) Biennial Report.—Every two years the Board shall prepare and make publicly available a comprehensive and detailed report that includes an identification and description of all programs and projects undertaken by the Board during the previous two years as well as those planned for the subsequent two years and detail the allocation or planned allocation of Board resources for each such program or project. Such report shall also include—

1. the Board’s overall financial condition;
2. a summary of the amounts obligated or expended during the two preceding fiscal years; and
3. a description of the extent to which the Board’s objectives were met according to the metrics required under subsection (i).

(k) Books and Records of Persons Covered by Order.—

1. In general.—The order shall require that manufacturers shall—
(A) maintain records sufficient to ensure compliance with the order and regulations; and

(B) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the Board or the Department.

(2) TIME REQUIREMENT.—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subparagraph (B) trade secrets and commercial or financial information that is privileged or confidential reported to, or otherwise obtained by the Board or the Secretary (or any representative of the Board or the Secretary) under this Act shall not be disclosed by any officers, employees, and agents of the Department or the Board.

(B) SUITS AND HEARINGS.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and
(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) General statements and publications.—This paragraph does not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) Penalty.—Any officer, employee, or agent of the Department of Commerce or any officer, employee, or agent of the Board who willfully violates this subsection shall be fined not more than $1,000 and imprisoned for not more than 1 year, or both.
(4) WITHHOLDING INFORMATION.—This subsection does not authorize the withholding of information from Congress.

SEC. 7. ASSESSMENTS.

(a) ASSESSMENTS.—The order shall provide that assessments shall be paid by a manufacturer if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the date the assessment is to be remitted.

(b) COLLECTION.—

(1) IN GENERAL.—Assessments required under the order shall be remitted by the manufacturer to the Board in the manner prescribed by the order.

(2) TIMING.—The order shall provide that assessments required under the order shall be remitted to the Board not less frequently than quarterly.

(3) RECORDS.—As part of the remittance of assessments, manufacturers shall identify the total amount due in assessments on all sales receipts, invoices or other commercial documents of sale as a result of the sale of concrete masonry units in a manner as prescribed by the Board to ensure compliance with the order.

(c) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:
(1) **INITIAL RATE.**—The assessment rate on concrete masonry products shall be $0.01 per concrete masonry unit sold.

(2) **CHANGES IN THE RATE.**—

(A) **AUTHORITY TO CHANGE RATE.**—The Board shall have the authority to change the assessment rate. A two-thirds majority of voting members of the Board shall be required to approve a change in the assessment rate.

(B) **LIMITATION ON INCREASES.**—An increase or decrease in the assessment rate with respect to concrete masonry products may not exceed $0.01 per concrete masonry unit sold.

(C) **MAXIMUM RATE.**—The assessment rate shall not be in excess of $0.05 per concrete masonry unit.

(D) **LIMITATION ON FREQUENCY OF CHANGES.**—The assessment rate may not be increased or decreased more than once annually.

(d) **LATE-PAYMENT AND INTEREST CHARGES.**—

(1) **IN GENERAL.**—Late-payment and interest charges may be levied on each person subject to the order who fails to remit an assessment in accordance with subsection (b).
(2) **RATE.**—The rate for late-payment and interest charges shall be specified by the Secretary.

(e) **INVESTMENT OF ASSESSMENTS.**—Pending disbursement of assessments under a budget approved by the Secretary, the Board may invest assessments collected under this section in—

1. obligations of the United States or any agency of the United States;
2. general obligations of any State or any political subdivision of a State;
3. interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or
4. obligations fully guaranteed as to principal and interest by the United States.

(f) **ASSESSMENT FUNDS FOR REGIONAL INITIATIVES.**—

1. **IN GENERAL.**—The order shall provide that no less than 50 percent of the assessments (less administration expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the geographic region of the manufacturer.
2. **GEOGRAPHIC REGIONS.**—The order shall provide for the following geographic regions:
(A) Region I shall comprise Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(B) Region II shall comprise Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

(C) Region III shall comprise Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

(D) Region IV shall comprise Arizona, Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.


(3) ADJUSTMENT OF GEOGRAPHIC REGIONS.—The order shall provide that the Secretary may, upon recommendation of the Board, modify the composition of the geographic regions described in paragraph (2).
SEC. 8. REFERENDA.

(a) Initial Referendum.—

(1) Referendum Required.—During the 60-day period immediately preceding the proposed effective date of the order issued under section 4, the Secretary shall conduct a referendum among manufacturers eligible under subsection (b)(2) subject to assessments under section 6.

(2) Approval of Order Needed.—The order shall become effective only if the Secretary determines that the order has been approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.

(b) Votes Permitted.—

(1) In General.—Each manufacturer eligible to vote in a referendum conducted under this section shall be entitled to cast one vote.

(2) Eligibility.—For purposes of paragraph (1), a manufacturer shall be considered to be eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the period during which voting in the referendum will occur.

(c) Manner of Conducting Referenda.—
(1) IN GENERAL.—Referenda conducted pursuant to this section shall be conducted in a manner determined by the Secretary.

(2) ADVANCE REGISTRATION.—A manufacturer who chooses to vote in any referendum conducted under this section shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) VOTING.—The Secretary shall establish procedures for voting in any referendum conducted under this section. The ballots and other information or reports that reveal or tend to reveal the identity or vote of voters shall be strictly confidential.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify all manufacturers, in such a manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

(d) SUBSEQUENT REFERENDA.—If an order is approved in a referendum conducted under subsection (a), the Secretary shall conduct a subsequent referendum—
(1) at the request of the Board, subject to the voting requirements of subsections (b) and (e), to ascertain whether eligible manufacturers favor suspension, termination, or continuance of the order; or

(2) effective beginning on the date that is 5 years after the date of the approval of the order, and at 5-year intervals thereafter, at the request of 25 percent or more of the total number of persons eligible to vote under subsection (b).

(e) SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under subsection (d), the Secretary determines that suspension or termination of the order is favored by a majority of all votes cast in the referendum as provided in subsection (a)(2), the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, programs and projects under the order as soon as practicable and in an orderly manner.

(f) COSTS OF REFERENDA.—The Board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary
from assessments for any expenses incurred by the Secretary to conduct the referendum.

SEC. 9. PETITION AND REVIEW.

(a) Petition.—

(1) In general.—A person subject to an order issued under this Act may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearing.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) Limitation on petition.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed not less than
2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) Review.—

(1) Commencement of action.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed no later than 30 days after the date of the entry of the ruling by the Secretary.

(2) Process.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion the court, the law requires.
(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

SEC. 10. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General of the United States for appropriate action.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary a civil penalty of not more than $5,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may
issue an order requiring a person to cease and desist
from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing
a penalty or cease-and-desist order may be issued by
the Secretary under this subsection unless the Sec-
retary provides notice and an opportunity for a hear-
ing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or
a cease-and-desist order issued under this subsection
by the Secretary shall be final and conclusive unless
the person against whom the order is issued files an
appeal from the order with the appropriate district
court of the United States.

(d) ADDITIONAL REMEDIES.—The remedies provided
in this Act shall be in addition to, and not exclusive of,
other remedies that may be available.

SEC. 11. INVESTIGATION AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may conduct
such investigations as the Secretary considers necessary
for the effective administration of this Act, or to determine
whether any person has engaged or is engaging in any
act that constitutes a violation of this Act or any order
or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—
(1) INVESTIGATIONS.—For the purpose of conducting an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or section 9(c)(4), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or con-
ducts business, in order to enforce a subpoena issued
under subsection (b).

(2) ORDER.—The court may issue an order re-
quiring the person referred to in paragraph (1) to
comply with a subpoena referred to in paragraph
(1).

(3) FAILURE TO OBEY.—Any failure to obey
the order of the court may be punished by the court
as a contempt of court.

(4) PROCESS.—Process in any proceeding
under this subsection may be served in the United
States judicial district in which the person being
proceeded against resides or conducts business, or
wherever the person may be found.

SEC. 12. SUSPENSION OR TERMINATION.

(a) MANDATORY SUSPENSION OR TERMINATION.—
The Secretary shall suspend or terminate an order or a
 provision of an order if the Secretary finds that an order
 or provision of an order obstructs or does not tend to ef-
 fectuate the purpose of this Act, or if the Secretary deter-
 mines that the order or a provision of an order is not fa-
 vored by a majority of all votes cast in the referendum
 as provided in section 7(a)(2).

(b) IMPLEMENTATION OF SUSPENSION OR TERMI-

nATION.—If, as a result of a referendum conducted under
section 7, the Secretary determines that the order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

SEC. 13. AMENDMENTS TO ORDERS.

The provisions of this Act applicable to the order shall be applicable to any amendment to the order, except that section 8 shall not apply to an amendment.

SEC. 14. EFFECT ON OTHER LAWS.

This Act shall not affect or preempt any other Federal or State law authorizing research, education, and promotion relating to concrete masonry products.

SEC. 15. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this Act and the power vested in the Secretary under this Act.
SEC. 16. LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.

Funds appropriated to carry out this Act may not be used for the payment of the expenses or expenditures of the Board in administering the order.

SEC. 17. STUDY AND REPORT BY THE GOVERNMENT ACCOUNTABILITY OFFICE.

Not later than 5 years and 8 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare a study and submit to Congress and the Secretary a report examining—

(1) how the Board spends assessments collected;

(2) the extent to which the Board’s reported activities help achieve its annual objectives;

(3) any changes in demand for concrete masonry products relative to other building materials;

(4) any impact of the Board’s activities on the market share of competing products;

(5) any impact of the Board’s activities on the overall size of the market for building products;

(6) any impact of the Board’s activities on the total number of concrete masonry related jobs, including manufacturing, sales, and installation;

(7) any significant effects of the Board’s activities on downstream purchasers of concrete masonry
products and real property into which concrete masonry products are incorporated;

(8) effects on prices of concrete masonry products as a result of the Board’s activities;

(9) the cost to the federal government of an increase in concrete masonry product prices, if any, as a result of the program established by this Act;

(10) the extent to which key statutory requirements are met;

(11) the extent and strength of federal oversight of the program established by this Act;

(12) the appropriateness of administering the program from within the Office of the Secretary of Commerce and the appropriateness of administering the program from within any division of the Department of Commerce, including whether the Department has the expertise, knowledge, or other capabilities necessary to adequately administer the program; and

(13) any other topic that the Comptroller General considers appropriate.

SEC. 18. STUDY AND REPORT BY THE DEPARTMENT OF COMMERCE.

Not later than 3 years after the date of enactment of this Act, the Secretary shall prepare a study and submit
to Congress a report examining the appropriateness and
effectiveness of applying the commodity check-off program
model (such as those programs established under sub-
chapter II of chapter 101 of title 7, United States Code)
to a nonagricultural industry, taking into account the pro-
gram established by this Act and any other check-off pro-
gram involving a nonagricultural industry.